



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,720	12/09/2003	Eugene E. Osborne	8266-1201	5473

25267 7590 02/24/2005

BOSE MCKINNEY & EVANS LLP
135 N PENNSYLVANIA ST
SUITE 2700
INDIANAPOLIS, IN 46204

EXAMINER

SANTOS, ROBERT G.

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,720

Applicant(s)

OSBORNE ET AL.

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 83-102 is/are pending in the application.
- 4a) Of the above claim(s) 84,85,88 and 98 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 90-96 is/are allowed.
- 6) ☒ Claim(s) 83,86,87,89,97 and 99-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 83, 86, 87, 89, 97 and 99-101 are rejected under 35 U.S.C. 102(b) as being anticipated by Peck '529. With regards to claims 83 and 97, Peck '529 shows the claimed limitations of a patient support comprising a base frame (10), an intermediate frame (15) supported by the base frame, a deck (25) supported by the intermediate frame, the deck including a seat section (33) pivotable relative to the intermediate frame to move between first and second positions and a foot section (35) pivotable relative to the seat section to move between first and second positions, the seat section and foot section cooperating to define an angle when the seat section is in the second position, and a mechanism (55, 70) configured to control movement of the foot section relative to the seat section and for selecting the angle defined between the seat and foot section when the seat section is in the second position, the mechanism being configured to move between a first position wherein the foot section remains substantially horizontal when the seat section moves from the first position to the second position (as shown in Figures 1 and 2) and a second position wherein the foot section deviates from being substantially horizontal when the seat section moves from the first position to the second position (as shown in Figures 8 and 9). As concerns claim 86, the reference discloses a condition wherein the mechanism has a

Art Unit: 3673

first end and a second end and a distance between the first and second ends remains substantially constant when the mechanism is in the first position (as shown in Figures 1 & 2 and as described in column 4, lines 4-10). With regards to claims 87 and 99, the reference is considered to show a condition wherein the mechanism includes a linear actuator (70) having a first length that remains substantially constant when the mechanism is in the second position. As concerns claim 89, the reference discloses a condition wherein the frame further comprises a plurality of lift arms (18, 21) configured to raise and lower the intermediate frame relative to the base frame, the foot section remains substantially parallel to the intermediate frame when the mechanism is in the first position and the seat section moves to the second position (see Figures 1 and 2). With regards to claims 100 and 101, the reference discloses a condition wherein the selecting means extends to the foot section (35) and frame (15) (see Figures 1, 2, 8 & 9 and column 4, lines 4-6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 102 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peck '529 in view of Houlberg et al. '010. Peck '529 discloses the use of means for supporting (as described in column 4, lines 60-62) the patient on the deck (25), and means for controlling movement (90-92) of the deck including foot operated control means (90) supported by the base frame (10). However, Peck '592 lacks the use of means for blocking egress of a patient from the support

means and a pendant controller that removably couples to the blocking means. Houlberg et al. '010 provide the basic teaching of an adjustable patient support (2) including means for blocking egress of a patient (as shown in Figure 1) from a support means (8) and a pendant controller (68) that removably couples to the blocking means (also as shown in Figure 1). The skilled artisan would have found it obvious at the time the invention was made to provide the patient support of Peck '529 with means for blocking egress of a patient from the support means and a pendant controller that removably couples to the blocking means in order to impart additional safety to a user positioned thereon and to facilitate operation of the articulated deck sections as desired.

Response to Amendment

In response to Applicants' arguments on pages 8, 9, 11 and 12 of their amendment regarding the Krauska '201 and Pupovic '929 references, the examiner respectfully agrees. Hence, the claim rejections under these references have been respectfully withdrawn. With regards to Applicants' arguments on pages 10 and 11 of their amendment concerning the Peck '529 reference, the examiner respectfully maintains that element 33 may still be considered as a seat *section* which is pivotable relative to the intermediate frame (as shown in Figures 1-3, 8 & 9 of Peck '529). Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974). Accordingly, the claim rejections under Peck '529 have been respectfully maintained.

Allowable Subject Matter

5. Claims 90-96 allowed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ooyama et al. '281, Schermel '020, Tekulve '793, Osborne et al. '445, Paul '280, Newkirk '672 and Pennington et al. '718.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
February 22, 2005